IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1485 OF 2007

1. Union of India & 2 ors.] .. Petitioners

Versus

1. Shankar Baluram Ladehllu & Anr.] .. Respondents

Mr. Suresh Kumar for the petitioners.

Mr. G.S. Walia for the respondent No.1.

CORAM: S.B. MHASE, &
R.S. MOHITE, JJ.

DATED: 04TH JUNE, 2007

P.C. :

. The petitioner was to retire on 31st October, 1992 by superannuation. However, he actually retired on 17th June, 2003. Thus, from 31st October, 1992 to 17th June, 2003, he continued in service after superannuation. Therefore, petitioners are recovering salary which was paid to the respondent No.1. The said act of the petitioners was challenged by the respondent No.1 by filing Original Application No.178 of 2006 which was allowed by the Members of the Central Administrative Tribunal. The said order is challenged before this Court. We find that the day one a person enters into service, his birth date is known to the petitioners and,

therefore, the date of superannuation is also known to the petitioners. Inspite of this, they have allowed the respondent No.1 to work beyond the date of superannuation during the aforesaid period. Even though the respondent worked after superannuation, the employer in the present matter had promoted him on 10th January, 1997 as Junior Engineer, Grade-I.

2. Considering the above aspects, it appears that there was no fraud committed by the respondent No.1. It was a lapse on the part of the petitioners. Having extracted the work from the respondent No.1, it is unjust to recover the salary paid to the respondent No.1. We find this proposition in the judgments of the Apex Court reported in **AIR 1994, S.C., 599** in the matter of **State of Bihar Vs. Narasimha Sundram; 2003 (2), Central Administrative Tribunal Returns (Allahabad Bench)** in the matter of **Komal Vs. Union of India & Ors.** as also in **(1998) 6 SCC, 338** in the matter of **Ramswaroop Masawan Vs. Municipal Council & Anr.** We refrain to entertain the Petition. The Petition is, therefore, rejected.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]